

BASIS FOR THE AMENDMENT

The specification has been amended to correct obvious typographical errors not affecting the scope of the claims.

Claim 45 has been amended to correct the typographical error noted by the Examiner.

REMARKS

Favorable reconsideration of this application is requested.

Claims 1-51 are in the case.

The Examiner has required restriction under 35 U.S.C. § 121 to one of the following he mentions:

- I. Claims 1-23, 32-51, drawn to water absorbing composite, classified in class 442, subclass 417.
- II. Claims 24-31, drawn to method of making water absorbing composite, classified in class 427, subclass 180.

Applicants herewith affirm, with traverse, their provisional election of the claims of Group I, i.e., Claims 1-23 and 32-51. However, consistent with the M.P.E.P. §821.04, rejoinder of the nonelected process claims is requested upon allowance of the elected product claims.

Claims 24-31 stand withdrawn from further consideration as not reading on the elected invention.

Claims 1, 32 and 45 stand rejected under 35 U.S.C. § 112, second paragraph.

With regard to this rejection, the inadvertent typographical error in Claim 45 has been corrected.

As to the Examiner's criticism of the definitions of the recited characteristics as not being clear, the Examiner's attention is directed to pages 27-30 of the specification where the claimed parameters are specifically defined. One skilled in the art thus would clearly have no difficulty in ascertaining the meanings and scope of the defined characteristics.

Withdrawal of the rejection of the claims under 35 U.S.C. § 112, second paragraph, thus is requested.

Claims 1-23, 32 and 34-51 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Masaki et al.

Claim 33 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Masaki et al. in view of Tsuchiya et al.

These rejections are traversed. Specifically, the present invention relates to a water-absorbing composite, comprising water-absorbing polymer particles immobilized on a fibrous substrate wherein at least a part of said water-absorbing polymer particles comprise primary particles having an average particle diameter of about 50-1000  $\mu\text{m}$ , wherein about 30% by weight or more of said primary particles are combined to form agglomerates having a shape satisfying the following conditions while nearly maintaining their primary particle shapes and a part of particles of said agglomerates are not adhered to said fibrous substrate:

Average particle diameter (D)  $100 \leq D \leq 3000 \mu\text{m}$

Average relative displacement of the direction by direction analysis ( $\theta$ )  $10 \leq \theta \leq 25$

Frequency analysis 5 Hz/20 Hz intensity ratio (k)  $0.6 \leq k \leq 0.9$

Agglomerate maximum length (L)/minimum length (l) ratio  $1.2 \leq L/l \leq 15.0$ ,

as well as to a process for its preparation.

Such water-absorbing composite containing agglomerates of water-absorbing polymer particles stably immobilized on a fibrous substrate have good water-absorbing properties, a high water-absorbing speed and excellent immobility of gel after absorbing water. Note the examples and comparative examples in the case.

Masaki et al. clearly neither teaches, nor, in fact, makes obvious Applicants' discovery, within the meaning of 35 U.S.C. § 102 or § 103. As so summarized by Masaki et al. in its Abstract:

The absorbent sheet comprising at least hydrophylic fibers and thermally fusible bonding fibers or a strengthening assistant, and a superabsorbent polymer is characterized in that the superabsorbent polymer is not present

on an absorbent surface of the absorbent sheet for absorbing liquid but distributed inside the absorbent sheet, and is adhered and fixed to the hydrophilic fibers constituting the absorbent sheet, the superabsorbent polymer is spread at an amount of 5 to 300 g per 1 m<sup>2</sup> of the absorbent sheet and the absorbent sheet has thickness of 0.3 to 1.5 mm.

A Declaration under 37 C.F.R. 1.132 is submitted herewith factually demonstrating, by direct comparative evidence, that the claim limitations considered “not clear” by the Examiner are, in fact, features distinguishing over the art and being basis for patentable distinction. Note the accompanying Declaration by Sugyo, one skilled in this art, whose conclusions must be given credence (note In re Soni 34 U.S.P.Q. 2d 1684), demonstrating that the claimed limitations, so particularly defined at pages 27-30 of the specification, are, in fact, significant, meaningful and responsible for unobviously superior results of the differently structured composite and cannot be disregarded, as so done by the Examiner.

Further, note the examples and comparative examples in the case which also demonstrate unobvious results for the claimed limitations additionally obviating any possible presumption of a *prima facie* case. Specifically, note the Tables setting forth the results of the examples according to the invention and comparative examples, as well as to the discussion and interpretation of their results set forth at pages 36-37 of the specification. The unobviously superior results so shown thus also rebut any conceivable *prima facie* case of obviousness made out by the art, even if the rejection is considered to have been made under 35 U.S.C. § 103.

With regard to the rejection of Claim 33 under 35 U.S.C. § 103 over Masaki et al. in view of Tsuchiya et al., Tsuchiya et al. is relied upon only for obviousness of process limitations in the preparation of the water-absorbing composite. Such process limitations for the preparation of the article of Masaki et al., however, manifestly contradict the objective of this reference, Tsuchiya et al. thus clearly not being properly combined with nor remedying the inadequacies of the primary reference.

The additional attached Declaration under 37 C.F.R. § 1.132 by Itoh, further has been submitted as basis for the amendment in the specification to page 30 of the specification. This declaration further attests to the meaning of “particle diameter” as meaning—minimum length--, all of the average particle diameter data disclosed in the specification having been determined by measuring the minimum length of the selected 100 particles and calculating the average of the measured values. If acceptable to the Examiner, “particle diameter” in Claim 1 could be amended to –minimum length--.

Accordingly, withdrawal of the rejection of the claims under 35 U.S.C. § 102 and §103 is requested.

Should any further amendment to the claims be considered necessary by the Examiner, he is requested to contact the undersigned by telephone so that mutually agreeable language may be arrived at.

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It is submitted that this application is now in condition for allowance and which is solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



Norman F. Oblon  
Attorney of Record  
Registration No. 24,618

Samuel H. Blech  
Registration No. 32,082



**22850**

SHB/rac/cla  
Tel.: (703) 413-3000  
Fax: (703) 413-2220

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